BEFORE THE LAND USE BOARD OF APPEALS

OF THE STATE OF OREGON

CENTRAL OREGON LANDWATCH,
Petitioner,

vs.

DESCHUTES COUNTY,
Respondent,

and

TUMALO IRRIGATION DISTRICT,
Intervenor-Respondent.

LUBA No. 2016-056

FINAL OPINION
AND ORDER

Appeal from Deschutes County.

Carol Macbeth, Bend, filed the petition for review and argued on behalf of petitioner.

No appearance by Deschutes County.

Liz Fancher, Bend, filed the response brief and argued on behalf of intervenor-respondent.

BASSHAM, Board Member; HOLSTUN, Board Chair; RYAN, Board Member, participated in the decision.

AFFIRMED 05/04/2017

You are entitled to judicial review of this Order. Judicial review is governed by the provisions of ORS 197.850.

Opinion by Bassham.

NATURE OF THE DECISION

Petitioner appeals a county board of commissioners' decision determining that a large acreage property includes eight lots of record and four areas of land that do not constitute lots of record.

FACTS

The subject property is near the Upper Tumalo Reservoir, which was constructed in the 1920s. In the period from 1912 to 1914, prior to the reservoir's construction, the State of Oregon acquired a number of existing parcels in the area from private landowners, land that the state anticipated the reservoir would inundate. However, due to sinkholes in the bottom of the reservoir, the area that includes the subject property was never inundated, and remained vacant, functioning primarily as wildlife habitat.

In 1988, the State of Oregon through the Oregon Water Resources Department deeded the property via quitclaim deed to intervenor-respondent Tumalo Irrigation District (TID), on condition that the property remain in public ownership and be used as a winter feeding area for wildlife, with automatic reversion back to the state if those conditions are not met. The legal description of the property in the quitclaim deed consists of a metes and bounds description for the perimeter of the entire property. The county assessor then assigned a single tax lot number to the property, tax lot 7891. According to the quitclaim deed, the total acreage of property conveyed was 930 acres.

In 2004, TID applied to the county for a lot of record verification for the property it acquired through the 1988 deed. As explained below, a "lot of record" is a defined term under county code, which is defined to mean a unit of land meeting certain size requirements that was created in one of several prescribed ways.[1] Whether a unit of land qualifies as a "lot of record" as

[1] Deschutes County Code (DCC) 18.04.030 includes the following definition:

> "'Lot of Record' means:
>
> "A. A lot or parcel at least 5,000 square feet in area and at least 50 feet wide, which conformed to all zoning and subdivision or partition requirements, if any, in effect on the date the lot or parcel was created, and which was created by any of the following means:
>
> "1. By partitioning land as defined in ORS 92;
>
> "2. By a subdivision plat, as defined in ORS 92, filed with the Deschutes County Surveyor and recorded with the Deschutes County Clerk;
>
> "3. By deed or contract, dated and signed by the parties to the transaction, containing a separate legal description of the lot or parcel, and recorded in Deschutes County if recording of the instrument was required on the date of the conveyance. If such instrument contains more than one legal description, only one lot of record shall be recognized unless the legal descriptions describe lots subject to a recorded subdivision or town plat;

defined in DCC 18.04.030 has significance for whether the unit of land can be developed under the DCC. In a March 23, 2005 decision, the county concluded that the property that TID acquired in the 1988 deed is not a lot of record, but rather is part of a larger unit of land consisting of TID's property and four adjoining parcels still owned by the State of Oregon.

"4. By a town plat filed with the Deschutes County Clerk and recorded in the Deschutes County Record of Plats; or

"5. By the subdividing or partitioning of adjacent or surrounding land, leaving a remainder lot or parcel.

"B. Notwithstanding subsection (A), a lot or parcel validated pursuant to ORS 92.176 shall be recognized as a lot of record.

"C. The following shall not be deemed to be a lot of record:

"1. A lot or parcel created solely by a tax lot segregation because of an assessor's roll change or for the convenience of the assessor.

"2. A lot or parcel created by an intervening section or township line or right of way.

"3. A lot or parcel created by an unrecorded subdivision, unless the lot or parcel was conveyed subject to DCC 18.04.030(B).

"4. A parcel created by the foreclosure of a security interest.

"For the purposes of DCC Title 18, 'lot' or 'parcel' means a lot of record as defined DCC 18.04.030."

On April 22, 2015, TID applied again for a lot of record verification, based on new information not presented in the 2005 application. TID argued in its application that its property included within its boundaries five legal lots of record. A county planner reviewed the evidence submitted, primarily deeds to parcels that the state acquired between 1912 and 1914, in obtaining ownership of the land currently owned by TID. The planner developed six useful maps, Figures 1 through 6, which depict the initial configuration of parcels prior to the state's acquisition, through intervening changes, to the current configuration of TID's property. We understand Figure 3 to represent the parcelization pattern that existed largely unchanged from 1914, when the state finished acquiring land for the reservoir project, to 1987, prior to the 1988 quitclaim deed. Figure 5 represents the boundaries of property conveyed to TID in the 1988 quitclaim deed, based on the metes and bounds description. Figure 6 represents the parcelization pattern that the planner concluded existed after the 1988 quitclaim deed. The planner ultimately concluded that TID's property includes within its boundaries eight parcels that qualify as lots of record as defined at DCC 18.04.030. As we understand it, seven of the eight parcels were created by deeds recorded prior to 1914. One of those deeds that was recorded prior to 1914 left a remainder parcel, an undescribed remnant of a parent parcel. On Figure 6, these eight units of land are designated Parcels 1-8. The planner also concluded that TID's property includes four other units of land that do not qualify as lots of record, because they were illegally created by

the 1988 quitclaim deed as remainder portions of four parcels retained by the state. As shown on Figure 5, these four units of land are designated W, X, Y and Z.

Petitioner appealed the planner's decision to the hearings officer, who conducted an evidentiary hearing and, on November 12, 2015, issued a decision affirming the planning director's decision. Petitioner appealed the hearings officer's decision to the board of county commissions, which conducted a hearing on the record compiled before the hearings officer. On April 27, 2016, the commissioners issued a decision affirming the hearings officer's decision, which it adopted as Exhibit A to the decision, along with additional findings in Exhibit B. This appeal followed.

FIRST, SECOND, THIRD and FOURTH ASSIGNMENTS OF ERROR

In these assignments of error, petitioner argues on various grounds that the county erred in concluding that TID's property includes eight "lots of record" as defined at DCC 18.04.030. The arguments under these assignments of error are largely variations on a single theme, namely, that the 1988 quitclaim deed had the legal effect of consolidating all then-existing parcels within TID's property into a single unit of land, the bounds of which are described in the deed. Accordingly, we address these assignments of error together.

First, a note on terminology. As the parties recognize, the term "lot of record" as defined at DCC 18.04.030 is not interchangeable with the terms

"lot" or "parcel" as those terms are defined in ORS chapter 92, or the definition of "parcel" at ORS 215.010(1).[2] As noted, the key significance of designating a unit of land as a "lot of record" defined at DCC 18.04.030 is that the county will recognize a lot of record as a developable unit of land under the DCC. For purposes of the DCC, a unit of land may be recognized under real estate law or other sources of law, but not be recognized as a "lot of record," and hence a developable unit of land, unless it is found to have been created in one of the ways specified in DCC 18.04.030. *See* n 1. However, because of overlapping definitions in the DCC and statutes, it is difficult to avoid some terminological confusion. In this opinion, we will attempt to use the word "parcel" according to the definition at ORS 215.010(1). We will reserve the

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[2] ORS 215.010 provides definitions for terms used in ORS chapter 215, which governs county zoning and land use. ORS 215.010(1) provides, in relevant part:

> "As used in this chapter:
>
> "The terms defined in ORS 92.010 shall have the meanings given therein, except that "parcel":
>
> "(a) Includes a unit of land created:
>
> "(A) By partitioning land as defined in ORS 92.010;
>
> "(B) In compliance with all applicable planning, zoning and partitioning ordinances and regulations; or
>
> "(C) By deed or land sales contract, if there were no applicable planning, zoning or partitioning ordinances or regulations."

broader term "unit of land" to describe units of land that may or may not be "parcels" as defined at ORS 215.010(1), and the term "lot of record" for units of land that were created in one of the ways specified in DCC 18.04.030.

A. Consolidation by the 1988 Quitclaim Deed

Petitioner's main argument, set out primarily in the second and third assignments of error, is that as a matter of law the 1988 quitclaim deed consolidated any parcels that may have existed within TID's property into a single unit of land. Because that single unit of land was created in 1988 in a manner that does not qualify the resulting unit as a lot of record under any provision of the DCC 18.04.030 definition of lot of record, petitioner argues that the county erred in concluding that the subject property consists of multiple discrete units of land, eight of which are parcels that qualify as lots of record.

Specifically, petitioner argues that because the 1988 quitclaim deed described the property conveyed with a single metes and bounds description of the perimeter of TID's property, as a matter of law the deed created a single unit of land corresponding with that description. According to petitioner, the description contained in the deed of a single unit of land consolidated all parcels that formerly existed within that newly created unit of land.

The county rejected that argument below. In the administrative decision affirmed by the hearings officer, the planner concluded:

> "For property boundaries to be eliminated, supporting evidence of such action is required (*e.g.* consolidation through a property line

adjustment or platting a subdivision or partition). As noted below, evidence was not found that indicates the subject legal lots of record were consolidated through a property line adjustment approval or platted as part of a subdivision or partition. Through various Lot of Record Verification decisions, Deschutes County Hearings Officers found that when a single deed includes multiple parcels that were lawfully created with discrete boundaries in previous conveyances, it did not result in the elimination of the previously established boundary lines [citing a number of local hearings officer's decisions]." Record 614-15 (quoted in the hearings officer's decision at Record 29).

Similarly, the board of commissioners concluded:

"Nothing in state law requires the County to interpret its lot of record law to vacate property lines between lots and parcels or between lots of record. The County's interpretation of its code is that the act of conveying legal lots together in a single deed, alone, does not eliminate lots of record." Record 39.

"Deschutes County's lot of record definition does not require that lots or parcels held in common ownership at some point in time in the history of the property or lots or parcels conveyed together on one deed or legal description be aggregated together for purposes of development. Neither does State law. Any unit of land created by deed or contract prior to April 5, 1977 [the date the county adopted its partition ordinance] is a parcel that may be a "Lot of Record." Parcels 1 through 8 were created prior to April 5, 1977. The conveyance of these eight parcels and parts of four other parcels together in a legal description in the 1988 deed did not vacate the property lines between the parcels.

"The boundaries of 'a lot or parcel,' whether created by deed, contract, partition or subdivision map, plan or plat, exist until the boundaries of the lot or parcel are vacated by a lawful vacation process such as a County-approved lot consolidation or by the approval of a partition or subdivision plat. Lot and parcel lines are not vacated by the description of multiple legal lots of record in a single legal description in deeds between private parties unless

consolidation has been required or approved by Deschutes County. * * *" Record 17.

As the county observed, petitioner cites no authority under state or local land use law for the proposition that a deed that conveys multiple units of land using a single metes and bounds legal description has the effect, as a matter of law, of consolidating all previously separate units of land located within the borders of that legal description into a single, newly-created unit of land. None of the cases petitioner cites stand for that proposition, and we are aware of no authority supporting it.

The closest case cited is *Weyerhauser Real Estate Development Co. v. Polk County*, 63 Or LUBA 393, *aff'd* 246 Or App 548, 267 P3d 855 (2011), which involved a property that had been subdivided by recording of a subdivision plat in 1911 into four lots, but the county determined that those four subdivision lots had been vacated and consolidated in a county-approved 1983 partition plat. LUBA, and the Court of Appeals, ultimately affirmed the county's decision. The holding in *Weyerhauser* does not support the proposition urged by petitioner, and in fact provides support for the conclusion reached by county in the present appeal: that in 1988 some county-approved land use process was necessary to consolidate existing parcels into a single new parcel.

Petitioner also cites no authority, in Oregon or other states, for the proposition that, as a matter of *real estate* law, a deed that conveys multiple units of land using a single metes and bounds legal description has the

automatic effect of consolidating all previously separate units of land located within the borders of that legal description into a single, newly-created unit of land. Our limited research has found no cases on that issue, although it is an issue that must have arisen somewhere, at some point. If there are some real estate cases or authority on this issue, it is probable that the answer involves interpretation of the deed, and a determination of the grantor's intent. On this issue, a generally applicable rule of real estate law, which applies regardless of the grantor's intent, may not exist. As discussed below, the interpretation of ambiguous deeds and the determination of grantor intent under real estate law is a function within the particular competence and jurisdiction of the circuit court. It is a function that the county, in exercise of its land use decision-making authority, and LUBA, in exercise of its review authority, should avoid if at all possible.

Returning to the more familiar realm of land use law, the board of county commissioners found that under the DCC, consolidation of discrete lots or parcels can be accomplished only by means of a county process that requires county land use approval. Petitioner offers no focused challenge to that understanding of the DCC, and provides no basis for LUBA to reject that interpretation, under the deferential standard of review at ORS 197.829(1) that

LUBA must apply to a governing body's interpretation of local land use legislation.[3]

The 1988 quitclaim deed, whatever else it accomplished, did not serve as a surrogate for any county process, with county approval, which could have led to consolidation of existing parcels. Under the board of commissioners' interpretation of the DCC, county approval was necessary to accomplish consolidation. Petitioner identifies no authority under state law or any other source of law that would compel as a matter of law the consolidation of multiple existing parcels conveyed in a single legal description in a deed, in the absence of the county land use approval that the board of commissioners has interpreted the DCC to require. Accordingly, we have no basis to agree with

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[3] ORS 197.829(1) provides:

> "[LUBA] shall affirm a local government's interpretation of its comprehensive plan and land use regulations, unless the board determines that the local government's interpretation:
>
> "(a) Is inconsistent with the express language of the comprehensive plan or land use regulation;
>
> "(b) Is inconsistent with the purpose for the comprehensive plan or land use regulation;
>
> "(c) Is inconsistent with the underlying policy that provides the basis for the comprehensive plan or land use regulation; or
>
> "(d) Is contrary to a state statute, land use goal or rule that the comprehensive plan provision or land use regulation implements."

petitioner that as a matter of law the 1988 deed had the effect of consolidating existing parcels included within the boundaries of the legal description into a single new unit of land.

B. Interpretation of DCC 18.04.030 Lot of Record Definition

Under the first assignment of error, petitioner argues that the county misinterpreted DCC 18.04.030 in several ways, to conclude that eight units of land within TID's property are "lots of record." Much of petitioner's argument is premised on the view, rejected above, that the 1988 deed had the legal effect of consolidating all parcels that existed within the bounds of TID's property, into a single new parcel. However, in one sub-assignment of error petitioner argues that the county misconstrued DCC 18.04.030 by concluding that certain "remainder parcels" within TID's property qualify as "lots of record." That sub-assignment of error does not depend on petitioner's rejected premise that all parcels within TID's property were consolidated via the 1988 deed. Accordingly, we address that argument here.

As noted, subsection (A)(5) of the DCC 18.04.030 definition of "lot of record" provides that lot of record includes a parcel that was created "[b]y the subdividing or partitioning of adjacent or surrounding land, leaving a remainder lot or parcel." *See* n 1. In the county's initial administrative decision, the planner recognized as a lot of record under DCC 18.04.030(A)(5) a remainder unit of land that remains after a deed was recorded that creates a

new parcel from a larger parent parcel.[4] The planner recognized that a remainder parcel created in this manner does not "meet the strict definition contained in DCC 18.04.030(A)(5) because the adjacent or surrounding lands have not been subdivided or partitioned[.]" Record 621 (quoted in the hearings officer's decision at Record 29). That is, the planner apparently understood DCC 18.04.030(A)(5) to apply only to remainders left over from partitioning or subdividing as authorized under ORS chapter 92, as referenced in DCC 18.04.030(A)(1) and (2). *See* n 1. However, the planner reasoned that a remainder parcel resulting from a deed that creates a new smaller parcel from a larger parent parcel prior to adoption of statutory processes for partition and subdivision can nonetheless be recognized as a "lot of record," if the remainder parcel is subsequently conveyed separately by deed.

The board of commissioners partially disagreed with the planner's understanding of DCC 18.04.030(A)(5). The commissioners interpreted the term "partitioning" as used in that subsection to also include creation of a new parcel by deed prior to adoption of the county partition ordinance. The commissioners' findings state:

> "Parcels created by deeds or contracts may qualify as lots of record as remainder parcels through the partitioning of adjoining

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[4] As we understand it, the only remainder parcel recognized as a lot of record in the county's decisions is Parcel 5. The other parcels recognized as lots of record, 1-4 and 6-8, were created in their current configurations either by a federal patent or by a recorded deed describing the new parcel thus created.

> or surrounding land. This occurs when a deed conveys a part of a parent parcel. The part conveyed is created by deed and the part remaining in the ownership of the owner of the parent parcel (prior to division) is a remainder parcel. The remainder parcels described in the administrative decision were surrounded by parcels that had been partitioned from a parent parcel by deed and the resulting parcels, therefore, meet the definition of a remainder parcel in DCC 18.04.030, Lot of Record (A)(5). Prior to April 5, 1977, the date the County adopted its first partition ordinance, this method of dividing land was lawful and the only means of creating new parcels. Remainder lots were sometimes created by 'modern day' subdivision or partition approval, if the entire parent parcel was not shown on the partition map, plan or plat but this type of lot is no longer allowed to be created—all parts of a divided property must be shown on the plat." Record 16-17 (footnotes omitted).[5]

On appeal, petitioner argues that the commissioners' interpretation of DCC 18.04.030(A)(5) is inconsistent with its express language. Petitioner argues that DCC 18.04.030(A)(5) is limited by its terms to remainder lots and parcels created by "subdividing" and "partitioning," and those terms must mean the same as "partitioning land as defined at ORS 92," the phrase used in DCC 18.04.030(A)(1), and a "subdivision plat, as defined in ORS 92," the phrase used in DCC 18.04.030(A)(2). *See* n 1. According to petitioner, the only subsection of DCC 18.04.030(A) that speaks to parcels created by deed is DCC

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[5] In one of the omitted footnotes, the commissioners stated:

> "This finding replaces and controls over conflicting findings in the administrative decision and hearings officer's decision that says that lands divided by deed or contract have not been subdivided or partitioned and that the remainder parcels in this case do not meet the strict definitions of DCC 18.04.030, Lot of Record (A)(5)." Record 17, n 5.

18.04.030(A)(3), which provides that a "lot of record" includes a lot or parcel created:

> "By deed or contract, dated and signed by the parties to the transaction, containing a separate legal description of the lot or parcel, and recorded in Deschutes County if recording of the instrument was required on the date of the conveyance. If such instrument contains more than one legal description, only one lot of record shall be recognized unless the legal descriptions describe lots subject to a recorded subdivision or town plat[.]"[6]

However, petitioner argues that a unit of land created via a deed as a remainder of the parent parcel cannot possibly qualify as a "lot of record" under DCC 18.04.030(A)(3), because in that circumstance there is no "recording" of an instrument that includes a "separate legal description" of that remainder unit of land, as required by DCC 18.04.030(A)(3).

We tend to agree with petitioner that a remainder parcel created by deed that does not include a legal description of the remainder parcel could not qualify as a lot of record under DCC 18.04.030(A)(3), but that is not the question. As noted, the commissioners interpreted DCC 18.04.030(A)(5) to

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[6] Neither the decision nor the parties discuss the significance of the last sentence of DCC 18.04.030(A)(3), which states in relevant part that if a deed or contract that creates a parcel "contains more than one legal description, only one lot of record shall be recognized * * *." Under the last sentence, it appears that no matter how many parcels an instrument creates, the county will recognize only one lot of record arising from that instrument. No party argues that the last sentence of DCC 18.04.030(A)(3) applies to the 1988 quitclaim deed, or to the deeds that created Parcels 1-8 as reflected in Figure 6, and we do not consider the question further.

govern remainder parcels created by deed. Specifically, the commissioners concluded that the scope of "partitioning" as used in that subsection also includes the creation of parcel by deed prior to adoption of the county partition code. Petitioner argues that "partitioning" must be limited to "partitioning land as defined at ORS 92," referenced in DCC 18.04.030(A)(1). However, we cannot say that the commissioners' interpretation is inconsistent with the express language of DCC 18.04.030(A)(5). ORS 197.829(1)(a). As the findings note, creating a new parcel by deed was a common practice long before the county adopted a partitioning ordinance, and creation of new parcels by deed could, and often did, result in the creation of a remainder parcel that was the undescribed remainder of the parent parcel. Further, as the findings note, "modern day" partition ordinances adopted pursuant to ORS chapter 92 do not result in the creation of undescribed remainder parcels. Thus, DCC 18.04.030(A)(5) would have little application under petitioner's reading, that the single word "partitioning" as used in DCC 18.04.030(A)(5) has the same meaning as the differently phrased "partitioning land as defined in ORS 92," as used in DCC 18.04.030(A)(1). The commissioners' interpretation gives effect to DCC 18.04.030(A)(5) and certainly is not implausible, read in context. *Siporen v. City of Medford*, 349 Or 247, 259, 243 P3d 776 (2010) (LUBA must affirm a governing body's code interpretation under ORS 197.829(1), unless the interpretation is "implausible" considering text and context). Accordingly, we affirm the commissioners' interpretation of DCC 18.04.030(A)(5).

C. References to Lot of Record

Under the third assignment of error, petitioner argues that the county erred in failing to distinguish between a unit of land that may be created by a deed and a "lot of record," which is not a unit of land at all, but simply a designation that confers development rights on units of land created in certain ways. As an example of this error, petitioner cites a finding, quoted above, where the commissioners state:

> "* * * Lot and parcel lines are not vacated by the description of multiple legal *lots of record in a single legal description in deeds* between private parties unless consolidation has been required or approved by Deschutes County." Record 17 (italics added).

Petitioner argues that a legal description in a deed does not describe "legal lots of record," but rather describes the parcels created or conveyed.

Petitioner is correct that the findings sometimes appear to use the term "lots of record" where a different term such as "parcel" or "unit of land" would be more accurate. However, petitioner does not explain why any terminological confusion results in reversible error.

D. Interpretation of Deeds

In the fourth assignment of error, petitioner argues that the county misapplied the DCC 18.04.030 definition of "lot of record" to allow county staff to interpret the language of the deed that created the property at issue. According to petitioner, determining whether a unit of land created by deed is a lot of record does not require county staff to go back through the history of all the deeds involving the subject property, or examine the grantor's intent, but

rather simply to determine the date on which property obtained its current configuration, and then compare that date to the date the county adopted its partition or subdivision ordinance. If the date of creation predates the county partition ordinance, petitioner argues, then the property is a lot of record. In the present case, petitioner argues that the subject property obtained its current configuration in 1988, via the quitclaim deed, after the county adopted its partition and subdivision ordinances, and thus neither it nor any part of it can qualify as a lot of record.

Intervenor argues, and we agree, that petitioner's arguments do not provide a basis for reversal or remand. To the extent petitioner's arguments are a reiteration of its argument that the 1988 deed consolidated all parcels within TID's property, we have already rejected that argument. We see no error in county staff determining whether a unit of land created by deed is a lot of record by examining the deed that created it; indeed DCC 18.04.030(A)(3) appears to require such examination. Nor do we see any error in examining the deeds in the chain of title that conveyed and shaped a unit of land between its creation and its current configuration. It is generally true that a circuit court has the final say on the interpretation of deeds, particularly in determining grantor intent, but petitioner has not demonstrated that in issuing its decision the county impermissibly interpreted the terms of any deeds or attempted to determine a grantor's intent.

E. Other Arguments

The first four assignments of error include a number of other arguments, none of which merit discussion.

F. Conclusion

For the foregoing reasons, the first, second, third and fourth assignments of error are denied.

FIFTH ASSIGNMENT OF ERROR

As support for its rejection of petitioner's argument that the 1988 quitclaim deed had the legal effect of consolidating the parcels within TID's property, the county also cited and relied on ORS 92.017, which provides:

> "A lot or parcel lawfully created shall remain a discrete lot or parcel, unless the lot or parcel lines are vacated or the lot or parcel is further divided, as provided by law."

The county's findings rely on ORS 92.017 to support its conclusion that the 1988 deed did not act to consolidate the parcels located within TID's property, because at no point did the county approve the vacation or consolidation of parcels "as provided by law."

Petitioner challenges the county's reliance on ORS 92.017, arguing that the statute applies only to a "lot" or "parcel" as those terms are defined in ORS 92.010, and that under those definitions, units of land created by deed or contract prior to the adoption of statutes or subdivision and partition ordinances that require county approval to create lots and parcels are not "lots"

or "parcels," as those terms are used in ORS chapter 92.[7] Accordingly, petitioner argues, ORS 92.017 provides no support for the county's conclusion

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[7] ORS 92.010 provides in relevant part:

> "As used in ORS 92.010 to 92.192, unless the context requires otherwise:
>
> "* * * * *
>
> (3)(a) 'Lawfully established unit of land' means:
>
> "(A) A lot or parcel created pursuant to ORS 92.010 to 92.192; or
>
> "(B) Another unit of land created:
>
> "(i) In compliance with all applicable planning, zoning and subdivision or partition ordinances and regulations; or
>
> "(ii) By deed or land sales contract, if there were no applicable planning, zoning or subdivision or partition ordinances or regulations.
>
> "* * * * *
>
> "(4) 'Lot' means a single unit of land that is created by a subdivision of land.
>
> "* * * * *
>
> "(6) 'Parcel' means a single unit of land that is created by a partition of land.
>
> "(7) 'Partition' means either an act of partitioning land or an area or tract of land partitioned.

that the 1988 quitclaim deed did not consolidate the parcels located within TID's property.

We need not address the fifth assignment of error, because we have affirmed the county's primary rationale for rejecting petitioner's consolidation argument, namely, that a county-approved process was necessary to accomplish consolidation of existing parcels, and that nothing in the county code or state law provides that, as a matter of land use law, a deed with a single legal description has the effect of consolidating all units of land located within the description, in the absence of such a county-approved process. Accordingly, even if the county erred in relying on ORS 92.017 as additional support for its decision, any error would not provide a basis for reversal or remand.

> "(8) 'Partition plat' includes a final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a partition.
>
> "(9) 'Partitioning land' means dividing land to create not more than three parcels of land within a calendar year * * *
>
> "* * * * *
>
> "(16) 'Subdivide land' means to divide land to create four or more lots within a calendar year.
>
> "(17) 'Subdivision' means either an act of subdividing land or an area or a tract of land subdivided.
>
> "(18) 'Subdivision plat' includes a final map and other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision."

The fifth assignment of error is denied.

The county's decision is affirmed.